MEMORANDUM OF UNDERSTANDING
(INFORMATION SHARING AGREEMENT)
BY AND BETWEEN
THE UTAH DEPARTMENT OF WORKFORCE SERVICES
AND
THE UTAH STATE OFFICE OF EDUCATION (ADULT EDUCATION SERVICES)

Purpose of MOU: The Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq., P.L. 106-113 (WIA) provides for certain agencies to share quarterly wage records in order to track performance measures of common customers (Section 136) and to document successful completion of ADULT EDUCATION and literacy programs. DWS and ADULT EDUCATION therefore agree to exchange data and information from respective computer database systems. Shared information needed for exchange includes:

i. Wages Earned by Individual
ii. GED and/or ADULT EDUCATION Programs Completion

This information sharing is also intended to reduce staff time on the part of both agencies, reduce customers' needs to submit information to both agencies, and to reduce the time to properly process and make determinations in both agencies.

Legal Authority for sharing quarterly wage records: Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.); Workforce Investment Act of 1998; Utah Code Annotated Subsection 35A-4-312(5)(h); Unemployment Insurance Program Letter (UIPL) No. 21-99, including Attachments A and B; and 20 CFR 666.150 definition of "quarterly wage record information" to be used for WIA performance measurement; 20 CFR 603.7 confidentiality protection provisions.

Legal Authority for sharing ADULT EDUCATION program completion records: Utah Code Annotated Subsection 63-3-206(2) Government Records Access and Management Act (GRAMA) permitting private or controlled records to be provided to another governmental entity if it is necessary to the performance of that entity's duties and functions, will be used for a purpose similar to the purpose for which the information in the record was collected, and if the public benefit outweighs the individual privacy right that protects the record.

Reimbursement for data sharing: DWS and ADULT EDUCATION agree to mutually share their data. This satisfies the DOL regulations requiring reimbursement by the receiving entity for wage record information shared.

DWS and ADULT EDUCATION, hereby agree to the following regarding the exchange of information:

I. ON LINE AND DATA WAREHOUSE ACCESS:

DWS will develop online and/or data warehouse access methods specifically for the Utah Wage Record Data Files for ADULT EDUCATION staff. Access controls and audit tracking to these

resources should be maintained. Specific Wage Record Data File information requested is quarter, year, and sum of wages reported for each individual. ADULT EDUCATION will develop online and/or data warehouse access methods specifically for completion and/or achievement of ADULT EDUCATION programs including Adult High School completion (AHSC), English for Speaker of Other Languages (ESL/ESOL), and General Educational Development (GED). Specific information includes program (GED or other) type and dates of completion and location (school, community, or other site of instruction) where served. The availability of these data elements to each respective agency will be reevaluated, as new data sources are developed, based on the agency's need and authority to receive each data element.

II. DISCLOSURE AND CONFIDENTIALITY REQUIREMENTS:

Generally, wage data and ADULT EDUCATION program completion information are confidential and not subject to disclosure. However, disclosure is permitted if the following circumstances are met:

1. Safeguards: Each agency shall have sufficient safeguards in place to ensure the disclosed information is used only for the purpose disclosed.
2. Eligible Queries: Each agency may only request/query information for individuals who are applying for or participating in respective services.
3. Wage Record Confidentiality: Each agency shall follow the confidentiality protection provisions of 20 CFR 603.7 (attached to this agreement) for wage record confidentiality until such time as the Secretary of Labor issues new confidentiality regulations. Thereafter, each agency shall follow the new regulations.
4. ADULT EDUCATION Program Completion Records Confidentiality: Each agency shall follow the confidentiality protection provisions of Utah Code Annotated, Title 63, Government Records Access Management Act for ADULT EDUCATION program completion record confidentiality.
5. Re-disclosure of Wage Record Information: is limited to public officials or their agents whose duties fall within the Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.); Workforce Investment Act of 1998 (WIA), (29 U.S.C. 2801 et seq.) P.L. 106-113; and Utah Code, Section 35A-4-312(5)(h), or to private entities on the basis of informed consent of the individual or the employer to whom the information pertains (UIPL 21-99 Attachment B).
6. Re-disclosure of ADULT EDUCATION Program Completion Information: is limited to public officials who may receive the information under Utah Code, Subsection 63-2-206(2) or to private entities on the basis of informed consent of the individual to whom the information pertains.
7. Wage Record Informed Consent Requirements: a signed release must contain the following: (a) a specific statement by the entity requesting consent indicating that the individual/employer's information will be released, (b) a statement that indicates what the private entity needs the release for, (c) a clear statement informing the individual that the private entity may use information from State governmental files, and (d) a statement indicating all the parties who may receive the information released (UIPL 23-96 Disclosure of Confidential Employment Information to Private Entities).
8. Wage Records – Unlawful Access or Disclosure Penalties: Any person who knowingly and willfully requests or obtains wage records under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under law to receive it shall be guilty of a misdemeanor and fined not more than $5,000 under federal law (UIPL 11-89, Attachment III), and/or guilty of a class A

misdemeanor with a sentence of imprisonment not exceeding one year and/or fine not to exceed $2,500 under Utah law (Subsection 76-8-1301(4)). Any person whose information was negligently or knowingly disclosed without authorization may bring a civil action for damages or such other relief as may be appropriate against any officer or employee. (UIPL 11-89, Attachment III).

9. ADULT EDUCATION Program Completion Records – Unlawful Access oDdisclosure Penalties: Utah Code Annotated, Section 63-2-801 provides criminal penalties as follows: Any person with lawful access to such record and who intentionally discloses or provides a copy to any person knowing that the disclosure is prohibited is guilty of a class B misdemeanor. Any person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any such record to which he is not legally entitled is guilty of a class B misdemeanor. The penalty for a class B misdemeanor is imprisonment for a term not to exceed 6 months and/or a fine not to exceed $1,000.

III. DATA TRANSFER:

Wage Data, GED and/or other ADULT EDUCATION completion information

1. DWS will create both a batch and direct access procedure for ADULT EDUCATION. DWS will provide ADULT EDUCATION with the necessary information to connect to information in the DWS data warehouse.
2. Information DWS requests from ADULT EDUCATION will be both in batch and direct access. DWS will provide a batch file to ADULT EDUCATION and ADULT EDUCATION will return data where a match exists. Also, DWS requests a stored procedure that can be accessed on an ad hoc basis.

IV. DATA SECURITY:

Access to Data: DWS and ADULT EDUCATION will limit access to data in electronic or hardcopy format to authorized individuals within each agency. Each agency's disclosure officers have the right to disapprove access to selected individuals or groups of individuals.

1. DWS will continue to limit access to its Oracle database via a PIX firewall, which follows State of Utah firewall standards for configuration and maintenance. State IT firewall standards are described in policy dated September 16, 2002, accessible at: www.security.utah.gov/policyproc/statewide.html. Access, use and control of the Oracle database will be restricted to DWS application development staff.
2. End user access will be limited by DWS to application-based queries only. DWS will limit access to ADULT EDUCATION data in electronic or hardcopy format to authorized individuals within DWS.
3. DWS must ensure and limit any application used to query the extracted ADULT EDUCATION data to only return information on DWS program participants/applicants and their households.
4. DWS will create and maintain a query log containing the user identification, the date/time of each query, and the social security number used in each query.

Unauthorized Access to Stored Data: Information either in electronic format such as magnetic tapes or discs, or in hardcopy paper format shall be stored and/or processed in

such a manner that unauthorized access is avoided. DWS and ADULT EDUCATION will secure the data in their respective repositories in a manner to protect internal confidential files (e.g. GED completion or wage data).

User Training: DWS and ADULT EDUCATION agree to train users accessing, disclosing, or receiving information under this MOU, including contractors and contract providers, on relevant statutes prescribing confidentiality and records protection requirements, re-disclosure prohibitions, and penalties for unauthorized access or disclosure. Disclosure officers for each agency have the right to review disclosure-training programs for each agency and require any changes necessary to said programs.

Security Plans: DWS and ADULT EDUCATION system security plans must include provisions warning of the potential statutory and employment sanctions for individuals who violate access and disclosure provisions. Additionally DWS and ADULT EDUCATION must be assured that procedures governing sanctions and individual corrective actions under applicable statutory authority and agency policy will be pursued against individuals who violate terms of this agreement.

On-site Review: DWS and ADULT EDUCATION shall permit each agency the right of on-site inspection with minimal reasonable notification to insure that the requirements of this Agreement are met. Additionally DWS and ADULT EDUCATION will allow on-site inspections by federal agencies with statutory oversight responsibility for the data of either agency.

DWS and ADULT EDUCATION will:

1. Report breaches of access and disclosure requirements to the appropriate disclosure officer.
2. Maintain a fully automated audit trail to be kept for a period of time specified by each agency's disclosure officer.
3. Develop and maintain mechanisms to detect anomalies in transaction patterns including significant variations in volume and type. Any unresolved investigations should be reported as noted in "1." above.
4. Notify authorized staff within each agency of any major change in a system platform (hardware and/or software) procedure and/or policy affecting transmission and/or distribution so that re-review of system safeguards can be initiated.

ADULT EDUCATION and DWS must identify all agency users, by position, who are authorized to access shared information. Requests will be sent to DWS Data Security where access will be granted through RACF. Requests for ADULT EDUCATION data will be sent to ADULT EDUCATION Data Security for review and access.

Termination: This MOU is effective upon the signature of both parties, and shall continue in effect unless modified in writing by the mutual consent of both parties or terminated by either party upon 30 days prior written notice to the other party by certified or registered mail, return receipt requested. DWS or ADULT EDUCATION may terminate this MOU without prior notice if deemed necessary because of a requirement of law or policy; upon determination by either party that there has been a breach of system integrity or security by the other party; or a failure by the to comply with established procedures or legal requirements.

APPROVAL:

Utah State Office of Education
(Adult Education Services)

David Steele 11/19/04

David Steele Date
Coordinator

Utah Department of Workforce Services

Raylene G. Ireland 12/1/04

Raylene G. Ireland, Date
Executive Director

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEU
	DATE January 5, 1989

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 11-89

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : DONALD J. KULICK
Administrator
for Regional Management

SUBJECT : Amendments Made by the Family Support Act of 1988, P.L. 100-485, and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, P.L. 100-628, Which Affect the Federal-State Unemployment Compensation Program.

1. Purpose. To advise State employment security agencies (SESAs) of amendments to the Social Security Act (SSA) affecting the Federal-State Unemployment Compensation (UC) Program.

2. References. Section 124 of P.L. 100-485; Section 904 of P.L. 100-628; Sections 303(h), 303(i), 304(a)(2), and 453, SSA.

3. Background. In late 1988, the President signed into law two bills containing provisions affecting the UC program. These bills are the Family Support Act of 1988, P.L. 100-485, signed into law on October 13, 1988; and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, P.L. 100-628, signed into law on November 7, 1988.

The pertinent provisions of the Family Support Act require SESAs to take such actions as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and UC claims information available to the SESA for purposes of assisting the Federal Parent Locator Service in carrying out the child support enforcement program under Title IV, SSA. This requirement is effective January 1, 1990.

In addition, the provisions of the Family Support Act require the Secretary of Labor to enter into an agreement with the Secretary of Health and Human Services to give the FPLS prompt access to the above wage and UC information. This agreement will govern the specific details of implementation. Further details regarding this agreement will be issued at a later date.

RESCISSIONS	EXPIRATION DATE January 31, 1991

DISTRIBUTION

TEXT, EXPLANATION AND INTERPRETATION OF AMENDMENTS MADE TO THE SOCIAL SECURITY ACT BY SECTION 124 OF P.L. 100-485, THE FAMILY SUPPORT ACT OF 1988

1. Text of Amendments to the Social Security Act Made by Section 124 of P.L. 100-485.

a. Amendment to Section 453(e), SSA. Section 124(a), P.L. 100-485, amended Section 453(e), SSA, by adding at the end the following new paragraph:

> (3) The Secretary of Labor shall enter into an agreement with the Secretary [of Health and Human Services] to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.

b. Amendment to Section 303, SSA. Section 124(b)(1) of P.L. 100-485 amended Section 303, SSA, by adding at the end the following new subsection:

> (h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under Title IV.
>
> (2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.

c. Companion Amendment to Section 304(a)(2), SSA. Section 124(b)(2) amended Section 304(a)(2), SSA, by striking

Granted funds under Title III may not be used to pay any costs of administration of Section 303(h). As noted in the Conference Report (H.R. Rep. No. 998, 100th Cong., 2d Sess. 103), "[c]urrent law provides for the Department of HHS to reimburse the costs incurred by States and Federal agencies in providing information to the Federal Parent Locator Service." Therefore, any administrative costs incurred by SESAs that are associated with Sections 303(h) and 453(e) will be borne by the Department of Health and Human Services.

Further details regarding the agreement between the Secretaries of Labor and Health and Human Services, the implementation of Section 303(h), and the method of billing and reimbursing costs of administration will be issued at a later date.

Subsection 124(b)(1) also added new Section 303(h)(2), SSA, requiring denial of administrative grants to any State upon the finding of the Secretary, after reasonable notice and opportunity for hearing to the SESA, that there is a failure to comply substantially with the requirements of new Section 303(h)(1). Finally, Section 124(b)(2) of P.L. 100-485 amended Section 304(a)(2), SSA, to provide for judicial review whenever the Secretary makes an adverse finding under Section 303(h)(2).

b. Safeguards on Granting Access. Section 303(a)(1), SSA, has been interpreted to require that sufficient safeguards exist to ensure that any disclosed wage and UC claim information be used only for the purposes for which it is disclosed. Section 303(h) requires disclosure only for purposes of "carrying out the child support enforcement program under title IV." Therefore, the Department interprets Sections 303(a)(1) and 303(h)(1) as requiring the States to establish sufficient safeguards, including such safeguards as the Department of Labor may require, to assure that access to the information is restricted to the FPLS and that the information given the FPLS is used only for the purposes specified under Section 303(h)(1).

c. Amendments to State Law. Most State laws now permit information in the SESA's records to be disclosed to public officials in the performance of their public duties. In addition, Section 303(f), SSA, requires SESAs to provide information for purposes of the income and eligibility verification system created by Section 1137, SSA. SESAs will need to

TEXT, EXPLANATION AND INTERPRETATION OF AMENDMENTS MADE TO THE SOCIAL SECURITY ACT BY SECTION 904(c) OF P.L. 100-628, THE STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

1. Text of Amendments to the Social Security Act Made by Section 904(c) of P.L. 100-628.

a. Amendment to Section 303, SSA. Section 904(c)(1)(A) of P.L. 100-628 amended Section 303, SSA, by adding the following new subsection:

> (i)(1) The State agency charged with the administration of the State law--
>
> (A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development--
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> (i) wage information, and
>
> (ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and
>
> (B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.
>
> (2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A).
>
> (3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied

respect to individuals applying for or participating in any housing assistance program administered by HUD. In certain instances, private owners of residences are responsible for determining eligibility for or level of benefits. The requirements of Section 303(i)(1) do not require disclosure to such owners. Indeed, as stated in the Conference Report (H.R. Rep. No. 1089, 100th Cong., 2d Sess. 91), "[t]he wage and UI information may not be released to private owners." In addition, before a SESA may release any information under Section 303(i) regarding an individual who is applying for or participating in a HUD housing assistance program, the individual must sign a consent form, approved by the Secretary of HUD, which permits the release of such information.

Under Section 303(i)(1)(A), the SESA is required only to disclose "information contained in the records of" the SESA. Because a SESA is required only to disclose information in its records, it is not required to obtain additional information for the use of HUD or other public housing agencies.

Under Section 303(i)(1)(A)(i), the information to be disclosed from SESA records includes "wage information." "Wage information" is not defined in Section 303(h). For purposes of the income and eligibility verification system required under Section 303(f), SSA, the Department has defined "wage information" contained in SESA records at 20 CFR 603.2(b):

> "Wage information" means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or number, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law . . . .[1]

The Department adopts this definition of "wage information" for purposes of Section 303(i)(1). However, if HUD or any public housing agency does not require any of this wage information to verify entitlement for HUD-assisted housing

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[1] The remainder of 20 CFR 603.2(b) addresses States where wage information is not required to be reported to the SESA. It is not applicable to Section 303(i)(1)(A) which only requires disclosure of information contained in the SESA's records.

subjects of the disclosed information by limiting the use of this information by requiring verification before action is taken against these individuals and by imposing penalties for improperly requesting, obtaining, or disclosing this information. (See Section 2.b of this attachment and Attachment III.)

b. Safeguards on Disclosing Information. New Section 303(i)(1)(B), SSA, requires the SESA to establish necessary safeguards to ensure that information disclosed is used only for purposes of determining the individual's eligibility for benefits, or the amount of benefits, under a HUD housing assistance program. The Secretary of Labor is to prescribe regulations on such safeguards as are necessary. Until such regulations are issued, SESAs will assure compliance with Section 303(i)(1)(B) by following the confidentiality protection provisions of 20 CFR 603.7 pertaining to the income eligibility and verification program. In addition, until such regulations are issued, as a condition of disclosure, HUD and other requesting public housing agencies must agree to comply with provisions of 20 CFR 603.7 (with a more stringent requirement noted below) pertaining to requesting agencies.

Section 904(c)(2) of P.L. 100-628 provides for limitations on the use of data obtained by the requesting agencies. Section 904(c)(3) provides for penalties for improper use of information. Although SESAs will not be actively involved in the administration of these sections, SESAs should be aware of the limitations on use of wage and UC information. These limitations should be included in any agreement between the SESA and HUD or other requesting public housing agencies.

Information received under Section 303(i)(1)(A) from SESAs may be redisclosed only under the limited conditions associated with administration of Section 303(i)(1)(a) and Section 904(c) of P.L. 100-628. Under 20 CFR 603.7(b)(3), agencies requesting information under the income and eligibility verification system may redisclose information to other requesting agencies as defined in 20 CFR 603.2(d). However, HUD and other public housing agencies may only redisclose information to public officials whose duties fall within the scope of Section 904(c). In this regard, SESAs should be aware that, under Section 904(c)(2)(A)(ii), the private owners responsible for verifying the individual's eligibility for or level of benefits under a HUD housing assistance program may only be informed by the recipient of the disclosed information

between the date of enactment, which is November 7, 1988, and September 30, 1989, then the State qualifies for a grace period. "Session" is not defined; however, the language "whether or not consecutive" indicates that the term means legislative days on which the legislative body assembles for the purpose of transacting business. Therefore, for purposes of Section 904(d)(3), "session" is interpreted as meaning a legislative day as recorded in the legislative record of the State legislature. These "sessions" include legislative days in regular, budgetary, special and any other sessions of the State legislature. If the State legislature has not met in such a "session" 30 times between the effective date of P.L. 100-628, which is November 7, 1988, and September 30, 1989, then the State qualifies for a grace period.

This grace period expires 30 calendar days "after the first day on which the legislature is in session on or after September 30, 1989." The same definition of "session" applies for determining the first day on which the legislature is in session after September 30, 1989. Therefore, the grace period will expire 30 calendar days after the first legislative day the legislature assembles after September 30, 1989.

For example, if the legislature does not meet in 30 sessions between the date of enactment of P.L. 100-628, which is November 7, 1988, and September 30, 1989, then the requirements of Section 303(i)(1) are effective 30 days after the first day the legislature meets in session after September 30, 1989. In another example, if a State legislature has not met in 30 sessions between November 7, 1988, and September 30, 1989, but does meet in a "session" October 1, 1989, then the grace period expires 30 days after this date, or October 31, 1989.

Based on information available to the Department, it is anticipated that only the Commonwealth of Kentucky will qualify for this grace period. This is because all other States will likely have legislatures which meet in session for at least 30 calendar days (whether or not consecutive) between the date of enactment of P.L. 100-628, which is November 7, 1988, and September 30, 1989.

Under certain circumstances, States may, at their option, implement the disclosure requirements of Section 303(i)(1) prior to September 30, 1989. Section 904(d)(2) provides for this optional early implementation:

TEXT OF SECTIONS 904(c)(2) AND (3) OF P.L. 100-628, THE STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

(2) APPLICANT AND PARTICIPANT PROTECTIONS.--(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(i) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, officers and employees of the Department of Housing and Urban Development and representatives of public housing agencies may only use such information--

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner responsible for determining eligibility for or level of benefits, to inform such owner that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to--

(i) the amount of the wages or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.--(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 303(i) of the Social Security Act

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUL
	DATE March 23, 1999

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 21-99

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : GRACE A. KILBANE Grace A. Kilbane
Director
Unemployment Insurance Service

SUBJECT : The Workforce Investment Act of 1998 - Affect on the Unemployment Insurance Program

1. Purpose. To inform the States of provisions of the Workforce Investment Act of 1998, Pub. L. 105-220 (WIA), that affect the unemployment insurance (UI) program.

2. References. The WIA, the Wagner-Peyser Act, the Job Training Partnership Act (JTPA), the Social Security Act, and the Federal Unemployment Tax Act.

3. Background. The WIA is the first major legislation addressing the nation's job training system in more than 15 years. Under the WIA, the Federal government, States, and local communities are provided with an opportunity to develop a system that provides workers with the information, advice, job search assistance, and training they need to get and keep good jobs. The system established under the WIA will also provide employers with skilled workers.

Although the WIA does not amend Federal UI laws, it does require that programs authorized under State UI laws, in accordance with applicable Federal law, be mandatory partners. As a mandatory partner under WIA, State UI programs must make available applicable services to participants, through a One-Stop delivery system. Two related

RESCISSIONS None	EXPIRATION DATE Continuing

5. Action. The Department encourages State UI agencies to participate as active partners in the WIA to the maximum possible extent, to amend UI laws as necessary to facilitate use of information for the purposes of the WIA, and to begin participating in WRIS.

6. Inquiries. Please direct inquiries to the appropriate Regional Office.

7. Attachments.
   A. Unemployment Insurance and the Workforce Investment Act, and
   B. Synopsis of WIA Provisions with UI Relevance.

Attachment A

UNEMPLOYMENT INSURANCE and the WORKFORCE INVESTMENT ACT (Policy Paper)

INTRODUCTION

Implementation of the Workforce Investment Act (WIA) offers an opportunity for States to forge closer linkages between programs including unemployment insurance (UI) claims services and reemployment services. With the evolution of One-Stop centers and telephone/internet UI claims systems, new ways are needed to ensure that UI beneficiaries are connected with reemployment services and that One-Stop centers have the information that unemployed workers need to be able to file UI claims.

In addition, UI wage records will be a critical resource for evaluating training and other services provided through the WIA. Each State is expected to have an agency that will compile UI wage record information about those who participate in WIA services and provide statistical information to the public about the post-participation labor market experiences of participants.

ACCESS TO UI CLAIMS INFORMATION

Providing information about filing claims for UI benefits is one of the core services that WIA requires for One-Stop centers. Anyone who goes into a One-Stop center should be able to easily learn how to file for UI benefits and ideally be able to file a claim on the spot. (The Employment and Training Administration required, as part of the One-Stop grants, that workers be able to file claims for benefits in One-Stop centers.) There are a variety of ways to provide these services, and States will employ different methods, using the approaches that best meet the needs of their customers. On-site telephone and electronic access to claims services, brochures, posters, and other information are examples.

Many One-Stop centers will probably have telephones that can be used to access claims filing systems. Others may have electronic self-filing for those that are comfortable with using automated systems.

their zip codes. As part of the initial claim interview, claimants would be told the One-Stop location and which services are offered.

USING UI WAGE RECORDS FOR EVALUATING PERFORMANCE

UI wage record data provide a valuable tool for evaluating training providers and measuring State and local performance by examining the labor market experiences of those who have participated in WIA programs. The Congress has made clear that continued investment in training and reemployment services is contingent on data demonstrating that training and other services are of value to participants. Wage record data can also be used to determine which service providers' programs are the most successful--by looking at how many of those who participated in the services are working and how much they are earning. A State agency designated by the Governor will develop and distribute consumer reports that provide key information on the performance of the service providers.

The WIA requires that States use quarterly wage records (consistent with State laws) to measure State and local performance and to make those records available to other States to carry out the State plan or complete the annual report. An electronic wage record interchange system (WRIS) has been developed as a pilot system so States can easily find wage and employment information on individuals who are working in States other than the one where they participated in WIA programs. Central to the WRIS design is an index of the social security numbers reported on State quarterly wage records. Inquiries that match a social security number with one in the index will be routed to the State where the information is located. The information will be retrieved and forwarded to the State entity that made the inquiry and will be used in State performance measures or in consumer reports.

CONCLUSION

The WIA establishes a platform for multiple programs to collaborate through a variety of mediums to better serve their customers and meet program goals. As WIA partners, UI agencies have the opportunity to become actively engaged in strengthening services for America's workers and employers.

Attachment B

Synopsis of WIA Provisions with Unemployment Insurance (UI) Relevance

1. One-Stop Service Delivery System: Section 121, WIA. The WIA mandates a One-Stop service delivery system designed to link services across programs to provide easier access and better services to customers. One-Stop service centers will provide information to the public about jobs, labor market dynamics, available training and education opportunities, and links to other services.

Each local area is required to have at least one physical "full service" center at which customers can access services from each of the One-Stop partners. This center may be augmented by additional "full service" centers, by a network of affiliated sites, or by a network of One-Stop partners consisting of a combination of physical sites or electronic access points.

Required One-Stop Partners: Section 121(b), WIA--This section requires that State UI agencies participate as partners in the local One-Stop system. In addition to the UI agencies, government agencies that administer the following programs are also mandatory One-Stop partners:

- Adult, Dislocated Worker, Youth, Native American, Migrant and Seasonal Farm Workers, Veterans', and Job Corps activities under Title I of the WIA;
- Employment Service (Wagner-Peyser);
- Adult Education and Literacy;
- Postsecondary Vocational Education;
- Vocational Rehabilitation;
- Welfare-to-Work;
- Title V of the Older Americans Act;
- Title II of the Trade Act of 1974;
- Veterans Employment and Training Programs;
- Community Services Block Grant; and
- Employment and training activities carried out by the U.S. Department of Housing and Urban Development.

Core Services: Section 134(d)(2), WIA--Each One-Stop system must provide, at a minimum, "core services" including the "provision of information regarding filing claims for unemployment compensation." UI services in One-Stop centers are not limited

The core indicators of performance include, among other things, entry into, retention in, and earnings from unsubsidized employment.

Wage Record Information: Section 136(f)(2), WIA, and Section 15(e)(2)(I), Wagner-Peyser (created by Section 309, WIA)--The WIA requires States to use quarterly wage records, consistent with State law, in measuring State progress on the WIA performance measures. States must also share wage record information, consistent with State law, with other States for performance measurement purposes. The State WIA plan must describe the strategy for using wage record data for performance and identify the entities that will have access to wage record data.

Wage record interchange system: The Secretary of Labor is charged with making arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State for performance measurement purposes. To this end, an electronic wage record interchange system (WRIS) has been developed as a pilot system, with plans for it to become an operational system during fiscal years 1999-2000. Central to WRIS will be an index of all social security numbers (SSNs) reported on the quarterly wage records of all States. The index will have three information items for each entry--an SSN, the quarter, and the State that holds the wage record. When an authorized State agency needs information for performance measurement purposes, the index will be searched via electronic request to determine where wage record information on an individual exists. If an SSN match occurs, a request for wage information will automatically be transmitted to the State where the wage record for the individual is located. The wage information will then be sent electronically to the requesting agency.

The UI Information Technology Support Center (ITSC) has developed and successfully tested the pilot WRIS in several States. The Interstate Conference of Employment Security Agencies (ICESA) has now agreed to govern and oversee the business operations of WRIS. Those business operations include developing data sharing agreements, monitoring WRIS, and collection of user charges associated with WRIS. The plan for implementing WRIS is to have

confidentiality applies.* Consequently, the wage record information may only be disclosed to public officials or their agents in the performance of public duties, or to private entities on the basis of the informed consent of the individual or the employer to whom the information pertains. Disclosure for WIA purposes must be consistent with one or more of these conditions. As currently envisioned, however, wage record use for consumer report and performance management purposes under WIA is consistent with these requirements. Therefore, States should not experience conflict between such uses and Federal UI law.

3. Real Property: Section 193, WIA. The Governor of a State may authorize a public agency to make available, for One-Stop purposes, any property in which the Federal government has acquired equity through the use of funds provided under Titles III and IX of the Social Security Act and the Wagner-Peyser Act if the public agency is a One-Stop partner. This provision applies only to properties in which the Federal government had acquired equity as of August 7, 1998.

Although this provision does not specifically include Reed Act equity, which is State rather than Federal equity, Reed Act equity is subject to this provision through the specific reference to Section 903(c), SSA. Section 903(c), SSA, contains the authorization for Reed Act money to be used for UI and Employment Service administration, including the purchase of real property. Therefore, the Department of Labor considers Section 193, WIA, to authorize the use of such real property for WIA purposes.

Once a property becomes a One-Stop service center, each partner must pay a fair share of the operating costs based on the use of the One-Stop delivery system by individuals attributable to the

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*UIPLs 23-96 and 34-97 discuss the confidentiality requirements. The Department plans to issue confidentiality regulations regarding UI information, including wage record information, soon. Because these UIPLs are broadly written, they could be read to apply to wage records collected and maintained by non-UI agencies for purposes of the Income Eligibility Verification System established by Section 1137, SSA. This is not the case. Only when information contained in these non-UI wage records is transmitted to the UI agency does the information become UI information and subject to UI confidentiality requirements. (This situation only exists in two States: Massachusetts and New York.)

Further information will be forthcoming on how the unified plan provisions of the WIA relate to UI.

6. Approved Training. Section 3304(a)(8) of the Federal Unemployment Tax Act (FUTA) prohibits the denial of UI to a worker who is in training with the approval of the State UI agency. Section 314(f)(2) of the Job Training Partnership Act (JTPA) provides that an eligible dislocated worker participating in training (except for on-the-job training) under Title III, JTPA, "shall be deemed to be in training with the approval of the State agency for purposes of" the FUTA. The WIA contains no provisions requiring WIA training to be considered approved training for UI purposes. However, during the transition to WIA, the requirement of Section 314(f)(2), JTPA, will be maintained. The Department anticipates that State UI agencies will continue to treat such training as approved training for UI purposes.

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEURL
	DATE May 31, 1996

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 23-96

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : MARY ANN WYRSCH
Director
Unemployment Insurance Service

SUBJECT : Disclosure of Confidential Employment Information to Private Entities

1. Purpose. To advise States of the Department of Labor's (Department) position regarding the disclosure of certain Unemployment Insurance (UI) information to private entities.

2. Reference. Sections 303(a)(1), 303(a)(8) and 303(f) of the Social Security Act (SSA); 20 C.F.R. Part 97; Office of Management and Budget (OMB) Circular No. A-87; ET Handbook No. 336; the Fair Credit Reporting Act (FCRA), P.L. 91-508, 15 U.S.C. 1681 et seq.

3. Background. Norwest Mortgage, in the form of its subsidiary VIE (Verification of Income & Employment), has signed an agreement with the State of Iowa's Department of Employment Services (IDES) to allow VIE to utilize Iowa wage records in a novel way. It is our understanding that VIE operates as a credit bureau and provides electronic access to employment verification information to credit approving entities covered under the FCRA,[1] such as mortgage lenders which subscribe to its service. VIE requires individuals seeking credit to sign a consent

[1] The FCRA regulates the operations of consumer credit reporting agencies and users of consumer reports.

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disincentive for employers to cooperate with the State agency in the administration of the State UI law.

Furthermore, Section 303(a)(8), SSA, limits grants use to purposes necessary for the proper and efficient administration of the Federal-State UI program. Since individuals have an interest in a release of sensitive information about themselves, it would not be proper administration of the UI program to release such information without the individual's informed consent. Confidentiality of UI records is, therefore, an elementary factor necessary in the proper administration of the UI program, since the release of UI information without the individual's informed consent would bring notoriety upon the UI program.

Certain types of disclosure have, however, been permitted. Disclosure of claimant and employer information to public officials in the performance of their official duties has been permitted if the cost of providing the information is paid for by the requesting public official. States have also been permitted to disclose information relating to an individual to such individual or the individual's agent. The Department has now concluded that States may disclose employment and wage information to a private entity under a written agreement which (1) requires informed consent from the individual to whom the information pertains, (2) continues to safeguard the information once in the hands of the private entity, and (3) requires the private entity to pay all costs associated with disclosure.

b. Informed Consent. States choosing to disclose employment and wage information to credit companies must require the individual to sign a release. The release must contain the following: (1) a specific statement indicating that the individual's employment history will be released, (2) a statement that the release is only for that particular credit transaction, (3) a clear statement informing the individual that the credit company may use information from State governmental files, and (4) a statement indicating all the parties who may receive the information released. Consent is not informed if an individual is not told that governmental records may be released and to whom the information may be provided. States must assure that all statements or forms provided under the terms of any agreements require the informed consent of the individual to use the State's records.

c. Safeguards. States must safeguard the confidentiality of the UI information once a private entity has been granted access to it. In cases where the private entity is acting as a gateway and passes the information along to a subscriber or client, States must obtain written assurances from the private entity that such subscribers will also safeguard the confidentiality of the information and that the information may be used only for the specific credit transaction authorized by the individual's release.

States must periodically audit a sample of transactions accessing the wage records to assure that the private entity has on file a written release authorizing each access and that the information is not being misused or stored in a database for resale or other

20 CFR 603.7 - Protection of confidentiality.

Section Number: 603.7

Section Name: Protection of confidentiality.

(a) State unemployment compensation agencies shall require requesting agencies receiving information under this part to comply with the following measures to protect the confidentiality of the information against unauthorized access or disclosure:

(1) The information shall be used only to the extent necessary to assist in the valid administrative needs of the program receiving such information and shall be disclosed only for these purposes as defined in this agreement;

(2) The requesting agency shall not use the information for any purposes not specifically authorized under an agreement that meets the requirements of Sec. 603.6;

(3) The information shall be stored in a place physically secure from access by unauthorized persons;

(4) Information in electronic format, such as magnetic tapes or discs, shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal or other means;

(5) Precautions shall be taken to ensure that only authorized personnel are given access to on-line files;

(6)(i) The requesting agency shall instruct all personnel with access to the information regarding the confidential nature of the information, the requirements of this part, and the sanctions specified in State unemployment compensation laws against unauthorized disclosure

of information covered by this part, and any other relevant State statutes, and

(ii) The head of each State agency shall sign an acknowledgment on behalf of the entire agency attesting to the agency's policies and procedures regarding confidentiality.

(b) Any requesting agency is authorized to redisclose the information only as follows:

(1) Any wage or claim information may be given to the individual who is the subject of the information;

(2) Information about an individual may be given to an attorney or other duly authorized agent representing the individual if the individual has given written consent and the information is needed in connection with a claim for benefits against the requesting agency; and

(3) Any wage or claim information may be given to another requesting agency as defined in this part or to any criminal or civil prosecuting authorities acting for or on behalf of the requesting agency if provision for such redisclosure is contained in the agreement between the requesting agency and the State unemployment compensation agency.

(c) The requesting agency shall permit the State unemployment compensation agency to make onsite inspections to ensure that the requirements of State unemployment compensation laws and Federal statutes and regulations are being met (section 1137(a)(5)(B).

20 CFR 666.150 - What responsibility do States have to use quarterly wage record information for performance accountability?

Section Number: 666.150

Section Name: What responsibility do States have to use quarterly wage record information for performance accountability?

(a) States must, consistent with State law, use quarterly wage record information in measuring the progress on State and local performance measures.

(b) The State must include in the State Plan a description of the State's performance accountability system, and a description of the State's strategy for using quarterly wage record information to measure the progress on State and local performance measures. The description must identify the entities that may have access to quarterly wage record information for this purpose.

(c) ``Quarterly wage record information'' means information regarding wages paid to an individual, the social security account number (or numbers, if more than one) of the individual and the name, address, State, and (when known) the Federal employer identification number of the employer paying the wages to the individual. (WIA sec. 136(f)(2).)

35A-4-312. Records.

(1) (a) Each employing unit shall keep true and accurate work records containing any information the department may prescribe by rule.

(b) The records shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as may be necessary.

(c) The employing unit shall make the records available in the state for three years after the calendar year in which the services were rendered.

(2) The division may require from an employing unit any sworn or unsworn reports with respect to persons employed by it that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections **35A-4-103** and **35A-4-106**, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in any manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) in an action or proceeding by the Labor Commission to enforce the provisions of Title 34A, Utah Labor Code, or Chapters 23, 28, and 40 of Title 34, Labor in General, provided the Labor Commission enters into a written agreement with the division under Subsection (6)(b); or

(iii) under the terms of a court order obtained under Subsection **63-2-202**(7) and Section **63-2-207** of the Government Records Access and Management Act.

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for any information concerning claims for benefits with respect to the employer's former employees.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the governor's office and other state governmental agencies administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(d) an employee of other governmental agencies that are specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(e) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in the detection or avoidance of duplicate, inconsistent, or fraudulent claims against a workers' compensation program, public assistance funds, or the recovery of overpayments of workers' compensation or public assistance funds;

(f) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(g) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of audit verification or simplification, state or federal tax compliance, verification of Standard Industry Codes, and statistics;

(h) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the Workforce Investment Act

of 1998 for the purpose of coordinating services with the department, evaluating the effectiveness of those activities, and measuring performance;

(i) an employee of the Department of Community and Economic Development, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, Standard Industrial Code, and type of ownership of Utah employers;

(j) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure; or

(k) an individual whose wage data has been submitted to the department by an employer, so long as no information other than the individual's wage data and the identity of the party who submitted the information is provided to the individual.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a) and (f), shall be made only if:

(a) the division determines that the disclosure will not have a negative effect on the willingness of employers to report wage and employment information or on the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Division of Workforce Information and Payment Services or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person, or for a purpose other than one authorized in Subsection (4) or (5) violates Subsection **76-8-1301**(4).

Amended by Chapter 135, 2003 General Session
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Last revised: Thursday, September 30, 2004

63-2-206. Sharing records.

(1) A governmental entity may provide a record that is private, controlled, or protected to another governmental entity, a government-managed corporation, a political subdivision, the federal government, or another state if the requesting entity:

(a) serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;

(b) enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;

(c) is authorized by state statute to conduct an audit and the record is needed for that purpose; or

(d) is one that collects information for presentence, probationary, or parole purposes.

(2) A governmental entity may provide a private or controlled record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:

(a) that the record or record series is necessary to the performance of the governmental entity's duties and functions;

(b) that the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and

(c) that the use of the record or record series produces a public benefit that outweighs the individual privacy right that protects the record or record series.

(3) A governmental entity may provide a record or record series that is protected under Subsection **63-2-304**(1) or (2) to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if:

(a) the record is necessary to the performance of the requesting entity's duties and functions; or

(b) the record will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained.

(4) (a) A governmental entity shall provide a private, controlled, or protected record to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:

(i) is entitled by law to inspect the record;

(ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or

(iii) is an entity described in Subsection (1)(a), (b), (c), or (d).

(b) Subsection (4)(a)(iii) applies only if the record is a record described in Subsection **63-2-304**(4).

(5) Before disclosing a record or record series under this section to another governmental entity, another state, the United States, or a foreign government, the originating governmental entity shall:

(a) inform the recipient of the record's classification and the accompanying restrictions on access; and

(b) if the recipient is not a governmental entity to which this chapter applies, obtain the recipient's written agreement which may be by mechanical or electronic transmission that it will abide by those restrictions on access unless a statute, federal regulation, or interstate agreement otherwise governs the sharing of the record or record series.

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(6) A governmental entity may disclose a record to another state, the United States, or a foreign government for the reasons listed in Subsections (1), (2), and (3) without complying with the procedures of Subsection (2) or (5) if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.

(7) (a) Subject to Subsection (7)(b), a governmental entity receiving a record under this section is subject to the same restrictions on disclosure of the record as the originating entity.

(b) The classification of a record already held by a governmental entity and the applicable restrictions on disclosure of that record are not affected by the governmental entity's receipt under this section of a record with a different classification that contains information that is also included in the previously held

record.

(8) Notwithstanding any other provision of this section, if a more specific court rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing information, that rule, order, statute, or federal regulation controls.

(9) The following records may not be shared under this section:

(a) records held by the Division of Oil, Gas and Mining that pertain to any person and that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas and Mining; and

(b) records of publicly funded libraries as described in Subsection **63-2-302**(1)(c).

(10) Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

Amended by Chapter 63, 2002 General Session
Amended by Chapter 63, 2002 General Session
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63-2-801. Criminal penalties.

(1) (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses or provides a copy of a private, controlled, or protected record to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (1)(a) that the actor released private, controlled, or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

(c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.

(2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which he is not legally entitled is guilty of a class B misdemeanor.

(b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

(3) A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a governmental entity, the records committee, or a court, is guilty of a class B misdemeanor.

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